



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GROVER SELLERS  
ATTORNEY GENERAL

Honorable Sam J. Hamilton  
District Attorney  
100th Judicial District  
Memphis, Texas

Dear Sir:

Opinion No. O-6674

Re: The commissioners' Court  
cannot establish election  
precincts in the county  
which apply only to spe-  
cial elections.

We have given careful consideration to your letter  
of June 26, 1945, which reads as follows:

"I am in receipt of a letter from Hon. M. O. Goodpasture, County Judge of Hall county, Texas, asking for an opinion on the question of whether or not the Commissioners Court can, by an order duly passed by it under Article 2933 R.C.S., set up four election precincts for the special elections to be held on August 25, 1945 and November 7, 1946 on Constitutional Amendments. The question is, can the Commissioners Court set up the four election precincts for the special elections only and continue the election precincts heretofore established for the Commissioners Court for all other elections? I am enclosing Judge Goodpasture's letter to me, for your consideration in connection with the question here submitted."

Article 2933 of the Revised Statutes provides specifically that the commissioners' court at each August Term shall divide their counties into convenient election precincts, and after same are so established publish them in some newspaper for three weeks in the county. The last sentence of said statute reads:

"No election precinct shall be formed out of two or more justice precincts nor out of the towns of two or more justice precincts."

In the case of Hogg v. Campbell, 48 S.W. (2d) 515, the court specifically held that the commissioners' court could not combine any portion of two or more justice precincts in one and the same election voting box. Under the above statute, the commissioners' courts are required to have as many voting boxes as they have justice of the peace precincts. The commissioners' court can provide for as many voting precincts in the county as they deem expedient.

Article 2938 of the Revised Statutes provides in the last paragraph that except in general elections, local option elections and primary elections the officers to be appointed by the commissioners' court to hold such elections shall be a presiding judge and one assistant judge and two clerks.

Article 2933 of the Revised Statutes provides that the election precincts as formed by the commissioners' court shall before the first day of each September be certified to the tax collector of that county.

It is thus evident that the commissioners' court cannot form new precincts for voting purposes after same have been provided for in August, and certified to the tax collector. Otherwise, it would create untold confusion and would not give the tax collector an opportunity to list the voters by or in voting precincts.

If the commissioners' court in their August meetings desire to divide their county into voting precincts, it can do so and establish one voting precinct for each justice precinct. They cannot reduce the number below the number of justice precincts. When so fixed and certified to the tax collector, the boundaries of the voting precincts cannot thereafter be changed, until the following August. During said year, in all elections, either special or general, the voters in the respective voting precincts as fixed by the commissioners' court would be entitled to vote only in their respective precincts.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

Geo. W. Bercus  
Assistant

GWB:db

APPROVED  
OPINION  
COMMITTEE  
BY *BWB*  
CHAIRMAN